

PERMIT HISTORY

Permit History (Prior Owner): The original two-story Hopi house was constructed prior to 1915 and was approximately 1,456 square feet (Attachment 11-Plans, Sheet A-1.0(b)). In 1959 Building Permit No. B14412 was issued for the enclosure of an existing front porch, approximately 216 square feet (Attachment 11-Plans, Sheet A-1.0(c)). A new porch addition at the rear of the structure, approximately 182 square feet, and a new second floor addition, approximately 455 square feet, was approved on January 7, 1969, pursuant to Building Permit No. E38684 (Attachment 10-Plans, Sheet A-1.0(c)). A new detached accessory building labeled as "Photo Lab" located at the front property, approximately 209 square feet, was approved on January 28, 1969, pursuant to Building Permit No. E40921 (Attachment 11-Plans, Sheet A-1.0(e)).

On June 2, 1978, the California Coastal Commission, San Diego Coastal Regional Commission, (hereafter "Commission") approved a 3,066 square foot addition to the existing single family residence pursuant to Permit No. F6760. This permit was appealed to the State Coastal Commission by concerned citizens pursuant to Appeal No. 221-78. On July 18, 1978, the State Coastal Commission upheld the Commission's approval of the permit. On August 14, 1978, a building permit was issued for the construction pursuant to Building Permit No. M19031. In reliance upon this permit, the applicant commenced development.

On September 15, 1978, one of the concerned citizens (Anthony C. Ciani) filed a lawsuit against the Commission and State Coastal Commission for having failed to make a public access and recreation finding on the project as required by the Coastal Act. On February 27, 1979, A Finding of Fact and Conclusion of Law was issued by the Superior Court of the State of California regarding the public access and recreation finding. The court ruled that such a finding must be made and the matter was remanded to the Commission to make specific findings on the public access and recreation. It was made clear by the court that no other aspects of the approved project were to be reconsidered. After several hearings and much testimony, the Commission adopted findings which found the site inappropriate for vertical access and required no such access due to safety factors and lack of street parking among others. This decision was appealed to the State Coastal Commission, which on September 20, 1979, found that public access should be required and issued Permit No. A-133-79. This permit included a condition that required the applicant to record both a lateral (from the toe of the bluff to the mean high tide line) and vertical (five feet wide extending from the street down to the bluff along the southern property line) public access easements. A recent search of the records revealed that the easements were never offered and or recorded.

A condition of Permit No. F6760 required the applicant to submit a drainage plan to control runoff and that the plan be reviewed and determined adequate in writing by the staff engineer for the State Coastal Commission. On March 26, 1980, the applicant submitted an application to the Commission for an amendment to the original permit (F6760-A) to legitimize the drainage and runoff control measures which were implemented prior to the Commission approval. The Commission approved the amendment on April 4, 1980.

Coastal Permit Jurisdiction: The Local Coastal Program (LCP) was adopted by the City Council and certified by the State Coastal Commission. The City of San Diego obtained responsibility for issuing Coastal Development Permits from the State Coastal Commission in this area of the city on October 17, 1988.

Permit History (Kretowicz): The applicant (Ure and Diane Kretowicz) purchased the subject property in March 1993. The existing master bedroom area was remodeled into a new kitchen, pursuant to Building Permit No. C302021-98 approved on April 15, 1998 (Attachment 11-Plans, Sheet A-1.0(g)). On February 17, 2001, the Planning Commission approved Sensitive Coastal Resource/Coastal Development Permit No. 96-7148 for the removal of the previously constructed bluff improvements and approved the construction of a pool and spa, deck, retaining walls, area drains, landscaping, and provide an emergency access easement. This development application was originally submitted in the early 1997 in response to a code enforcement complaint filed earlier for constructing improper landscape and hardscape improvements onto the coastal bluff. The Planning Commission's approval required the removal of all bluff improvements in violation (including wood timber stairs, retaining walls, and palm trees). The non-drought tolerant plant material on the bluff was permitted to remain without irrigation, so that the removal of the landscape would not further impact the bluff. On March 2, 2001, the Planning Commission's approval was appealed to the City Council. On June 5, 2001, the City Council denied the appeal and approved Permit No. 96-7148 with one additional condition that a gate is to be installed and, if for any reason the lateral access is not dedicated, that it is made sure it is a conditional of the project approval.

The City Council's decision was appealed to the Commission on the basis of being inconsistent with the LCP and the conditions of the of the Commission's Permit. (Appeal No. A-6-LJS-01-95). On August 6, 2001, the Commission found that a Substantial Issue existed with respect to the grounds on which the appeal was filed. The de novo review of the City's permit application was subsequently scheduled for October 2001; however, this hearing was postponed by the applicant. On May 14, 2002, the project was withdrawn by the applicant, which resulted in no permit for the development by the City or the Coastal Commission. On December 21, 2001, the Commission issued a Notice of Violation (NOV) of the California Coastal Act, Violation File No. V-6-01-106. The applicant's attorney submitted a letter of intent regarding the NOV on January 4, 2002.

On April 2, 2002, the applicant was issued Engineering Permit No. W50238 for private enhanced concrete pavement with in the public right-of-way at the terminus of Princess Street. On February 28, 2006, the applicant was approved for a construction change to the engineering permit to install exposed aggregate pavement and this work has been completed.

On May 1, 2002, the City's Neighborhood Code Compliance Department (NCCD) was contacted for construction on the project site without permits. NCCD conducted an inspection and found un-permitted excavation being done in the garage. The City of San Diego filed a lawsuit against the applicant and on April 14, 2004, and a "Stipulated Judgment" was entered into with the applicant and the City of San Diego, which required the concurrent processing to amend Coastal Development Permit No. A-133-79/F6760

(both permit numbers combined as one) with the Commission and process a Site Development Permit (SDP) with the City to resolve the outstanding issues.

On April 23, 2004, the applicant submitted an application with the City for a SDP to allow for the previous garage modifications, retaining walls, rear yard improvements, and an easement for emergency lifeguard access. The SDP No. 108967 (recorded as No. 8967) was approved on January 26, 2005. On February 11, 2005, the applicant submitted an application with the Commission to amend the Coastal Development Permit (Application No. A-133-79-A1/F6760-A2). In June 2005, the Commission reviewed the amendment to 1) replace the requirement that the property owner offer to dedicate (OTD) a vertical public access easement with a) an easement for emergency lifeguard access and b) contribute \$10,000.00 for public access improvements in the La Jolla area; 2) remove un-permitted improvements including, but not limited to , wooden timber stairs, retaining walls and palm trees on the face of the coastal bluff; 3) modify an existing retaining wall located in the yard (bluff top) of the site; and 4) install patio, barbecue, landscaping and modifications to the existing garage, including a car lift and storage. The Commission denied the applicant's request to revise the OTD requirements, but approved the other proposed improvements, except those located within the alignment of the access easement or those that could interfere with use of the access in the future. The applicant subsequently filed a lawsuit against the Commission regarding their decision (Case No. GIC 851915). In early 2007, a "Stipulated Judgment" was entered into with the applicant and the Commission, which allowed a new application to be submitted with the Commission to amend the Coastal Development Permit Application No. A-133-79-A2/F6760-A3. This application was submitted on April 3, 2007, and withdrawn by the applicant on July 3, 2008. The applicant will submit a new coastal development permit application to the Commission once all of the City's actions have been completed.

Civil Penalty Hearing: On May 6, 2005, the City's NCCD was contacted for construction on the project site without permits. NCCD conducted several inspections (September 12, 2005; August 14, 2006; August 24, 2006; March 19, 2007; August 7, 2007; November 8, 2007; and November 9, 2007) and was observed to be in violation, but not limited to un-permitted block walls, retaining walls, additions to the lower level (access to the interior space was denied), new deck on the second floor, upper level addition and modifications to the interior, addition and modification to the accessory structure in the front of the property, construction of masonry walls in the public right-of-way and the view corridor, garage modifications, and landscaping and irrigation on the coastal bluff in violation of the SDP No. 108967 that was approved on January 26, 2005. After several requests to Stop Work, the NCCD issued a Civil Penalty Notice & Order (CPNO), dated November 14, 2007. On December 6, 2007, NCCD issued a Notice of Civil Penalty Hearing which was scheduled for December 18, 2007. After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on December 26, 2007 (Attachment 5). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations noted in the CPNO to be added to the plans and included in Project No. 138513. This order included requirements for submitting for the ministerial permits, construction, and final inspections.